

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DANIEL PENA,)	
)	
Plaintiff,)	08 CV 7389
)	
vs.)	Honorable Judge
)	Milton I. Shadur
TRENT WILLIAMS et al.,)	
)	Magistrate Judge
)	Martin C. Ashman
Defendants.)	

**DEFENDANT'S MOTION FOR LEAVE TO AMEND
ANSWER TO ADD AN ADDITIONAL AFFIRMATIVE DEFENSE.**

NOW COME the Defendants, TRENT WILLIAMS, HOWARD DAVIS, JOHN MILLER, and BRENT LOMBARDI, by and through their attorney ANITA ALVAREZ, COOK COUNTY STATE'S ATTORNEY, and moves this Honorable Court for an order granting leave to amend their Answer to Plaintiff's Second Amended Complaint to add an additional affirmative defense.

In support of this motion, Defendants state as follows:

1. Defendants filed their answer to Plaintiff's Second Amended Complaint on September 4, 2009.
2. At the time the answer was filed, counsel for Defendants did not have access to the complete records.
3. Since the filing of Defendants' Answer counsel has become aware of additional information sufficient to support an additional affirmative defense.
4. Defendants respectfully request leave to amend their Answer to Plaintiff's Second Amended Complaint to add the additional affirmative defense of exhaustion.

5 . Defendants believe that Plaintiff failed to exhaust all administrative remedies before filing this lawsuit in contravention of the requirements of the Prison Litigation Reform Act 42 U.S.C. §1997(e)(a).

WHEREFORE, the Defendants pray this Honorable Court grants Defendants leave to amend their Answer to include the affirmative defense of exhaustion.

Respectfully Submitted,

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